



Paper No. 4

Dowell & Dowell, PC
1215 Jefferson Davis Highway
Suite 309
Arlington, Virginia 22202

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JUL 5 2001

In re Application of
Simard, Cuddy, and Edholm
Application No.: 09/750,015
Filed: December 29, 2000
Attorney Docket No: 71493-863
For: APPARATUS AND METHOD FOR PACKET-
BASED MEDIA COMMUNICATIONS

:
: **OFFICE OF PETITIONS**
: **A/C PATENTS**
:
: **DECISION ACCORDING**
: **STATUS UNDER**
: **RULE 47(a)**
:

This is in response to the petition filed May 23, 2001. Although the petition was filed under 37 CFR 1.47(b), the petition will be considered under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner is advised that 37 CFR 1.47(b) applies only when none of the named inventors can be found or when all of the named inventors refuse to join the application. In this case, only one inventor has refused to sign the application, therefore, 37 CFR 1.47(a) is the controlling legal authority.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on February 23, 2001, indicating that petitioner neglected to remit requisite fees and to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a \$130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from the mailing date of the Notice.

In response thereto, petitioner filed the instant petition and a request for an extension of time within the first month along with several accompanying exhibits through which petitioner established that although the non-signing inventor was mailed the complete application papers (specification, abstract, claims, drawings, and assignment) the non-signing inventor declined to execute the declaration.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Patricia Faison Ball
for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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David Cuddy
205 Faraday Street
Ottawa Ontario
K1Y 3M5 Canada

AIR MAIL

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LETTER

Dear Mr. Cuddy:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
for
Beverly M. Flanagan
Supervisory Petitions Examiner
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